

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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HARTFORD CASUALTY INSURANCE COMPANY

Plaintiff

No. 2:09-CV-03355 JHS

v.

AMERICAN RECYCLING SYSTEMS, INC.

and

ALCIBIADES GALAN

Defendants

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**DEFENDANT AMERICAN RECYCLING SYSTEM, INC.'S  
MOTION TO DISMISS COMPLAINT**

Defendant American Recycling System, Inc. ("ARS"), by counsel, hereby moves to dismiss the above-captioned action by Hartford Casualty Insurance Company ("Hartford") for declaratory judgment and, in support thereof, states the following:

1. Hartford issued to ARS, as the Named Insured, a general liability policy No. 44 SBM US9251, having a policy period from October 1, 2007 to October 1, 2008 ("the Policy").
2. On or about April 27, 2009, Defendant Galan commenced an action against ARS and others in the Philadelphia Court of Common Pleas captioned *Alcibiades Galan v. American International Co. n/k/a American Recycling Systems, Inc., et al*, April Term 2009, No. 03246 ("the underlying case").
3. The underlying case is ongoing in the Philadelphia Court of Common Pleas.

4. A dispute has arisen as to whether Hartford is obligated under the Policy to indemnify and defend ARS in the underlying case.
5. On or about July 27, 2009, Hartford filed the above-captioned action pursuant to the Declaratory Judgment Act, 28 U.S.C.A. § 2201(a), seeking resolution of the coverage dispute.
6. Under the Declaratory Judgment Act, 28 U.S.C.A. § 2201(a), this Court's jurisdiction is discretionary such that this Court may decline to decide the above-captioned declaratory judgment action.
7. Plaintiff's declaratory judgment action neither raises any issue of substantive federal law nor implicates any federal interest, but, rather, seeks a resolution based purely on the interpretation of the Policy under state law.
8. Where, as here, no issues of federal law or federal interests are implicated, this Court should exercise its discretion and dismiss plaintiff's declaratory judgment action.

WHEREFORE, for the reasons set forth in the attached Memorandum of Law, Defendant ARS requests that plaintiff's declaratory judgment action be dismissed.

Respectfully submitted,

DAVIS, PARRY & TYLER, P.C.

/s/ Lloyd George Parry

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December 11, 2009

**CERTIFICATE OF SERVICE**

I hereby certify that, on December 11, 2009, I electronically filed the foregoing Motion to Dismiss Complaint with the Clerk of the Court using the CM/ECF system, and I hereby certify that I have thereby electronically served this document upon all counsel of record who are registered with the Court's CM/ECF system.

DAVIS, PARRY & TYLER, P.C.

/s/ Lloyd George Parry

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